



Notice of Appeal September 6, 2008

To: Santa Barbara City Council
Appellants: Those Guys, Inc. dba Madison's Grill & Tavern ("Madison's")
Derek and Diane Harding
Subject: Denial of Dance Permit at 525 State Street
Date of Denial: May 22, 2008

Dear Madam Mayor and City Council Members:

Please accept this appeal of the Police and Fire Commission's decision to deny a Night Club Permit (Dance Permit) to Diane Harding, owner of Madison's Grill & Tavern located at 525 State Street, Santa Barbara.

Grounds for Appeal:

- Approval of the Dance Permit will have no impact on the Entertainment District (Existing Permit vs. New Permit): There has been a Night Club Permit at this location in since February 2001. Diane Harding, General Manager and/or Managing Partner of the business has been with Madison's since its inception (1994) and at this location since August 1998. This permit should be considered a "renewal" rather than a "new" permit. Approval of this permit does not have any impact or change the status quo of the Entertainment District.
- Madison's is a Model Business (Best Practices of Madison's Grill & Tavern meet or exceed the standard): These "best practices" include, but are not limited to, noise reduction programs, 16 camera security surveillance system, early "last call" policy and mandatory RBS training for employees. Additionally, Ownership and Management has gone to great lengths to work with neighboring businesses. Currently, there are no specific City imposed conditions that mandate these "best practices". However, Ownership and Management voluntarily exercise these practices to ensure good neighbor relations.
- Excessive and Unreasonable Punishment (Grounds for Denial are not warranted): The grounds for the denial as stated were "for not adhering to the ordinance". The intent of the Commission was to penalize or punish the owners of Madison's by crippling their business. This penalty/punishment translates to approximately \$15,000 in gross revenues per week or an annual impact of \$780,000. This is excessive, unreasonable and without merit or proper justification. Any length of suspension would unreasonable due to the trying times of the economy and

more importantly, there was no malicious intent to avoid or not comply with City codes or ordinances nor a history of repeated violations.

- Misinterpretation of Grounds for Denial, Suspension or Revocation by Commission as outlined in the Dance Permit Ordinance dated January 15, 2008: After review of sections 5.20.070 (GROUNDS FOR DENIAL OF A NIGHTCLUB DANCE PERMIT) and 5.20.150 (GROUNDS FOR SUSPENSION OR REVOCATION) it's the Owner's belief that the "GROUNDS" for DENIAL or SUSPENSION do not apply to our business or activities and do not justify any action other than an approval of the Nightclub Permit.

Thank you,



Diane E. Harding

Derek M. Harding

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- Santa Barbara City Council Meeting
September 16, 2008



Dance Permit

Those Guys, Inc. ("TGI") dba Madison's Grill & Tavern

- Diane Harding has been the General Manager and/or Managing Partner of Madison's Grill & Tavern since the inception of TGI.
- Madison's Grill & Tavern has been located at 525 State Street for over 10 years.
- A change in controlling interest for TGI was initiated in April 06. However due complexities of the transaction, the actual transfer of shares was finalized in Nov. 06.

- The transfer of controlling interest triggered the need to apply for a new Nightclub Permit (Dance Permit). However, we were unaware of the requirements due to certain representations and warranties that were provided in the purchase agreement. Two attorneys that worked on the transaction have written letters supporting this fact. (Both letters are attached (1) from Randall Fox dated August 27, 2008 and (2) from Pete Muzinich dated September 5, 2008)

- There's absolutely NO BENEFIT to the Harding's to intentionally avoid the Ordinance and put their \$750,000 investment at risk.

Madison's Grill and Tavern Operations Timeline

SHAREHOLDERS:

Harding 15%
DeSimone 85%

SHAREHOLDERS:

Harding 90%
DeSimone 10%

DANCE PERMIT

ABC LICENSE

LIVE MUSIC and/or OTHER ENTERTAINMENT

Diane Harding – Managing Partner

Brickyard
←

Madison's
→

8/1998

'02

'04

'06

'08

Madison's Best Practices

- **RBS Training:** ALL of Madison's staff are required by company policy to undergo RBS training and to date all have complied (See Exhibit A). This is currently a recommendation and **not** a specific condition of the Nightclub Permit. However, Ownership and Management voluntarily mandate the RBS training.

- **Minor Policy:** Despite the fact that Madison's has a ABC 47 liquor license that allows for minors to be inside the restaurant until 10pm, it is Madison's company policy for the past 10 years not to allow any person under the age of 21 entry to the restaurant unless accompanied by their parent. This policy is in Madison's training manual that every employee receives and must sign upon acknowledgement. (See Exhibit B)

- **Back Door Policy:** During the AM hours of operation, the back door to Madison's restaurant is used solely for delivery purposes to the kitchen and as entry to staff members. During the PM hours of operation, the back door is kept closed at all times and is an emergency exit only. Patrons are not allowed to enter or exit through the back door due to the fact that the back of the house is for "Employees Only". This is where the kitchen, pantry, walk-in, liquor room, server station, lockers and administrative offices are located. This policy is also in the Madison's training manual provided to staff. (See Exhibit C)

- **Sound Proofing:** Madison's voluntarily invested an additional \$5000 to sound proof their ceiling by installing an approximate 12 foot drop ceiling to eliminate sound projecting from the skylights and sealed them shut. Sound proofed the adjoining wall to the hotel within that drop ceiling and removed the subwoofers that promoted elevated sound from the DJ booth. In addition at 10pm on Thursday, Friday & Saturday Madison's management turns OFF the speakers located in the first 25 feet of the front of the restaurant to eliminate excessive music to State Street.

- **Last Call Policy:** Despite the ABC mandatory “Last Call for Alcohol” being 1:30am with patrons leaving establishments by 2am, Madison’s for several years now has assisted the SBPD with crowd control by announcing “Last Call” at approximately 1:15am and begin vacating the premises at 1:30am. This voluntary practice eliminates Madison’s patrons from filtering out onto State at the same time as neighboring clubs.

- **Security:** On the Thursday, Friday & Saturday evenings Madison's has a minimum of 5-6 security guards on duty from 9pm-2am. Two of the guards are posted at the front door to ID patrons and assist the SPBD with crowd control, while the other 4 are stationed at strategic positions throughout the building to monitor customer behavior. ALL of Madison's security staff are RBS trained and in addition also receive a 6 page training manual that they have to read and sign upon acknowledgement. (See Exhibit D)

- **Good Neighbor:** Throughout the course of the evening on Thursday, Friday & Saturday nights Madison's Head of Security, Lance King (former SB Sheriffs Dept Correctional Officer Jan 1999-Oct 2004, Imperial Valley Sheriffs Dept Correctional Officer 1998-1999, Arizona Dept of Correction/Prison) works the door and keeps an open line of communication with the SBPD, and neighboring security guards of both O'malley's & the Hotel Santa Barbara to effectively control sound levels & crowd management.

- **Additional Oversight:** Madison's has a 24 hour 16 camera surveillance system. This ensures that Ownership can constantly monitor the operations from a remote location. Ownership is available 24/7 to address any issues that might arise during the operations.

Impact of the SB Fire & Police Commission to DENY

- **Extreme Financial Hardship:** If the City Council does not overturn the decision to DENY, it will cripple Madison's and could effectively cause its closure. This type of punishment for an inadvertent (single) violation would translate to approximately \$15,000 in gross revenues per week or an annual impact of \$780,000. This is excessive, unreasonable and without merit or proper justification.

- **Net State Street Effect:** There will be NO change in the MUSIC (or Noise) as Madison's will still be able to play music. Ownership will do whatever it takes to market (and save) the business, keep its doors open and service its patrons. Ultimately this would translate to NO effect on the number of "night lifers" on the 500 block.

Santa Barbara Municipal Code

Chapter 5.20 / Dance Permits

- 5.20.070 (GROUNDS FOR DENIAL OF A NIGHTCLUB DANCE PERMIT) and 5.20.150 (GROUNDS FOR SUSPENSION OR REVOCATION) do not apply to Madison's. (See attached Ordinance pages 10 and 14.)
- Based on the Ordinance, there are no GROUNDS that justify any action other than an APPROVAL of the Nightclub Permit.
- There is insufficient evidence and a lack of any repeated violations to justify the DENIAL.

TITLE 28

The Zoning Ordinance

- Attached are certain definitions from the Zoning Ordinance that prevent any misinterpretation of the revised Dance Permit Ordinance (Chapter 5.20 Title Five of the Santa Barbara Municipal Code).

Definitions

28.04.170 Dwelling Unit.

A residential unit. (Ord. 4858, 1994; Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.210 Dwelling Unit.

One (1) or more rooms in a dwelling, apartment house or apartment hotel designed for or occupied by, one (1) family for living or sleeping purposes and having not more than one (1) kitchen. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.275 Guest Room.

Any habitable room, except a kitchen, designed or used for occupancy by one or more persons and not in a dwelling unit. (Ord. 4199, 1983.)

28.04.290 Hotel.

A building, group of buildings or a portion of a building which is designed for or occupied as the temporary abiding place of individuals for less than thirty (30) consecutive days including, but not limited to establishments held out to the public as auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses. (Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.419 Multiple Residential Unit.

A building, or portion thereof, configured and/or occupied as three (3) or more residential units and including apartment houses, but not including hotels. (Ord. 4858, 1994.)

More Definitions

28.04.469.3 Residential Hotel.

A hotel or boarding house or similar residential facility where, on the date of the adoption of this ordinance, the average duration of stay for the residents thereof exceeds thirty (30) days. (Ord. 4984, 1996.)

28.04.469.5 Residential Unit.

A. A building or portion thereof designed or occupied for residential purposes, containing not more than one (1) kitchen per residential unit, but not including hotels or boarding houses.

SBPD Recommendations

1. Approve the application without restriction of hours or days, but with the following minimal standard conditions:
 - All staff must undergo RBS training;
 - Except in the case of emergency, no patrons shall enter or exit the premises through rear doors;
 - The rear door must be kept closed, but unlocked, during hours of dancing;
 - Dancing shall not be permitted under any circumstances between the hours of 1:30 a.m. and 8:00 a.m.

2. Approve the application with the following condition which may arguably mitigate some area concerns:

- Music shall not be audible beyond 50 feet from the premises in any direction; (at 50 feet it's impossible to distinguish source of music along 500 block of State Street)
- A minimum of 4 security guards must be on duty during the hours of dancing;
- Front doors must be kept closed but unlocked during hours of dancing;
- The rear door must be kept closed, but unlocked, during hours of dancing;
- Except in the case of emergency, no patrons shall enter or exit the premises through rear doors;
- All staff must undergo RBS training;
- Dancing shall not be permitted under any circumstances between the hours of 1:30 a.m. and 8:00 a.m.

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- 3. Deny the application based on reported criminal offenses and noise concerns from the neighbors, specifically the Hotel Santa Barbara.

NOTE: Under Recommendation #2, Madison's is already in compliance (voluntarily) with 6 of 7 conditions. It's Ownership's contention that we're are the "model" for establishments who desire Nightclub (Dance) Permits.

Overview of Incidents

(Provided by Captain Robert Lowry)

- From April 06 to April 08 there have been a total of 27 offenses that are directly related to Madison's. The breakdown of the offenses are as follows:

Physical Altercations: 7

Narcotics: 1

ABC Violations: 1

Thefts: 4

False ID, Public Drunkenness, etc.

(Security Staff Notified SBPD): 11

Miscellaneous: 3

- The NET number of offenses is 16. That translates to less than ONE offense per MONTH over a two year period!
- Since April 08 the NET number of offenses is even less proving the effectiveness of Madison's Security and the SBPD.

Footnote: The Neighbors

- Hotel Santa Barbara

www.hotelsantabarbara.com

Quotes from their website:

**“Welcome to Hotel Santa Barbara
—where the atmosphere is alive
and the options are endless.”**

**“... superb entertainment, great beaches, and so
much more—all within walking distance of our
front doors.”**

The Hotel Santa
Barbara has very strict
“NO Party and Quiet”
Policies.

- **Holiday Inn Express/Hotel Virginia**

www.hotelvirginia.com

Quotes from their website:

“Evenings are spectacular in Santa Barbara and guests are within walking distance of not only world-class food and beverages...”

“...popular nightly entertainment at clubs on State Street...”

COUNCIL INTRODUCTION DRAFT

JANUARY 15, 2008

ALL NEW CODE PROVISIONS

AN ORDINANCE OF THE COUNCIL OF
THE CITY OF SANTA BARBARA
AMENDING TITLE FIVE OF THE
SANTA BARBARA MUNICIPAL CODE
BY REVISING CHAPTER 5.20 WITH
RESPECT TO DANCE PERMITS

SECTION ONE. Chapter 5.20 of Title Five of the Santa Barbara Municipal Code is amended in its entirety to read as follows:

5.20.010 Definitions.

For the purposes of this Chapter, the following words and phrases used herein are defined as follows:

- A. ABC LICENSE.** The license issued by the California Department of Alcoholic Beverage Control for the sale and consumption of alcoholic beverages.
- B. APPLICANT.** A person as defined by this Chapter, who seeks the issuance of a dance permit.
- C. DANCE OR DANCING.** Movement of the human body and feet in rhythm generally to music.
- D. DANCE ESTABLISHMENT.** A person or business who conducts a public dance or public dances.
- E. DANCE PATRONS.** Customers, invitees, or members of the public that attend a public dance.
- F. DANCE PERMIT.** Either a Limited Dance Permit, a Live Entertainment Dance Permit, or a Nightclub Dance Permit.
- G. ENTERTAINMENT DISTRICT.** The area of the City defined in the City of Santa Barbara's General Plan as the Entertainment District which is bounded by Sola Street on

the north, Santa Barbara Street on the east, Chapala Street on the west, and Cabrillo Boulevard on the south.

H. LIMITED DANCE PERMIT. A Dance Permit issued to an dance establishment which requests such a permit and which provides that the following permit restrictions apply:

1. The permit allows no more than twelve (12) public dances on twelve (12) separate days per year;
2. Dancing at the establishment must end prior to midnight on each occasion;
3. Such other conditions which the Chief may deem appropriate under the circumstances of the application, especially with respect to the required security measures and noise mitigation measures.

I. LIVE ENTERTAINMENT DANCE PERMIT. A Live Entertainment Dance Permit issued to a dance establishment which requests such a permit and which provides that the following permit restrictions apply:

1. The music (including singing) provided for the dancing is performed live exclusively and is not pre-recorded;
2. The music (including singing) provided for the dancing is not amplified in any way and is exclusively acoustic music;
3. The dance establishment does not offer dancing more than three (3) nights per week;
4. Such other conditions which the Chief of Police may deem appropriate under the circumstances of the application, especially with respect to the required security measures and noise mitigation measures;
5. Dancing within the establishment will not continue beyond midnight each day that dancing and live music is offered at the establishment.

J. NIGHTCLUB DANCE PERMIT. A dance permit issued by the City which is not classified as or restricted like a Limited Dance Permit or a Live Entertainment Dance Permit.

K. PERSON. Includes both the singular and the plural, and shall mean any individual, business, firm, company, corporation, association, partnership, legal entity, or society (exclusive of public agencies) including the authorized agents thereof.

L. PUBLIC DANCE. Any gathering of persons in or upon any non-residential or commercial premises where dancing occurs, either as the main purpose for such gathering or as an incident to the conduct of another business, and to which the public is admitted.

5.20.020 Public Dance Permit Required.

No person shall conduct or operate a public dance in the city of Santa Barbara without first obtaining a City dance permit as required by this Chapter.

5.20.030 Exclusions from Dance Permit Requirement.

A City dance permit under Section 5.20.020 of this Chapter is not required for the following activities:

A. DANCES AT CITY FACILITIES. Any public dance conducted in a park or recreational facility owned or operated by the City of Santa Barbara where the City facility has been properly reserved for a private non-commercial function and the dancing has been otherwise expressly permitted by the City for that facility;

B. CLUB DANCES. Any public dance conducted by or sponsored by any club or similar association organized for charitable, dramatic, or literary purposes where the club or association has pre-established association membership and it holds regular meetings for purposes other than dancing provided the net proceeds from the public dances are used exclusively for the purposes which the club or association has been officially established;

C. NONPROFIT YOUTH DANCES. Any public dance sponsored by any nonprofit public benefit organization (as established pursuant to state law) whose primary objective is the sponsoring of youth activities so long as all of the following requirements are met:

1. No person eighteen (18) years of age or older may in attendance, unless such person is a bona fide student at, or member of, the sponsoring agency or organization;
2. No alcoholic beverages are served or available at the premises where the dance is held;
3. Chaperones from the sponsoring agency are present on the premises at the rate of two adults (who are at least twenty-five years of age or older) for every one hundred guests;
4. The dance ends by midnight and the establishment and the adjoining parking lots are be promptly vacated no later than 12:30 a.m. after the dance.

D. PRIVATE CLUB DANCES. Dancing occasionally provided for members and their guests at a private club having a pre-established membership where admission to the dance is not open to the general public and where the dance is not held within premises licensed as a restaurant or premises licensed by the ABC for the public sale of alcohol to the general public. For purposes of this Section, "private club" shall mean a corporation or association operated solely for objects of national, social, fraternal, patriotic, political, or athletic nature, in which membership is by application and regular dues are charged, and the facilities of the club belong to members, and the operation of which is not primarily for monetary gain;

E. PRIVATE PARTIES. Dancing occasionally provided for invited guests only at a private non-commercial event such as a wedding reception, anniversary party, private banquet, or similar private or family celebration where there is no admission charge and where the invitation is not concurrent with the event or party;

F. CITY SPONSORED DANCES AND DANCE LESSONS. A dance or dance lessons provided or sponsored by the City of Santa Barbara.

G. CHURCH DANCES. Dancing occasionally conducted or sponsored by any religious or other corporation or organization exempt from taxation pursuant to Internal Revenue Code Section 501 where all net proceeds from the dance (including all proceeds from refreshments sold or served at the dance) are used exclusively for the

charitable, religious, or benevolent purposes of such corporation or organization;

H. SCHOOL PERFORMANCES. Performances or student recitals by students or performers at educational institutions (as defined by the Education Code) where such performances are part of an educational or instructional curriculum or program;

I. THEATRICAL PERFORMANCES. Dancing on a stage as part of a theater performance in a play or a similar dramatic or musical theater production or in connection with performances permitted pursuant to subparagraph (A) (2) of Santa Barbara Municipal Code Section 28.81.020;

J. PRIVATE DANCE INSTRUCTION. Dance lessons or dance instruction by a business providing such lessons or instruction beginning and ending prior to 9:00 p.m. each day.

K. PHYSICAL FITNESS CENTERS. Physical exercise to music provided by an athletic club, gym, or similar physical fitness center.

5.20.050 Application for City Dance Permit.

A. DANCE PERMIT APPLICATIONS. An application for any type of dance permit shall be filed with the Chief of Police on the required departmental application form which form shall provide at least all of the following information:

1. The name and permanent address of the applicant and all persons having any financial interest in the dance establishment, including all partners, members, or stock holders, thereof and including the owner of the real property where the public dancing is to be located;
2. The maximum number of persons who are expected to be present within the dance establishment at any one time;
3. For a new business establishment, the proposed opening date and hours and days of operation of the dance establishment, in particular those days and hours when dance music will be provided;
4. For a Limited Dance Permit applications, the dates and hours where dancing will occur and, for Live

Entertainment permit applications, the days of the week for which dancing is proposed;

5. A detailed architectural site or floor plan (drawn to scale) depicting the interior of the dance establishment including, in particular, the location, size, and number of dance floors, all windows, doors and exits, and all tables and chairs and other seating within the establishment;

6. For a Nightclub Dance Permit application, a noise mitigation site plan (drawn to scale) of the interior of the dance establishment including, in particular, the locations and specifications of all speakers, televisions, video monitors, and all other audio and amplification equipment, disc jockey booth as well as the location of any stage or other area where musicians will perform along with a narrative explanation of how the establishment will mitigate adverse noise impacts on surrounding properties during the operation of the nightclub;

7. For a Nightclub Dance Permit application, a business plan for the operation of the dance establishment, such as statement of the applicant's business goals for the dance establishment, the age group of the patrons the business will seek to attract, the type of music which will generally be played, and a general description of the applicant's plan for achieving its business goals;

8. For a Nightclub Dance Permit application, a comprehensive security plan for allowing the establishment to maintain order at all times, including, but not limited to, the following plan information:

a. The number of designated security personnel to be available on the premises depending based on weekday or weekend nights.

b. A security site plan (including a scaled drawing) depicting and describing the proposed security arrangements and showing where security personnel will be stationed during the hours of 8:00 p.m. until closing each night.

c. The designation of a security manager or managers by name and the cell phone contact numbers for such managers which information shall be kept current with the Police Department at all times by the permittee.

9. The name or names of the those persons (including cell phone contact numbers) designated by the owners of the establishment as having the day to day management and supervision authority over the proposed dance establishment [as the designated "general manager(s)"] which manager information and phone numbers shall be kept current with the Police Department by the applicant at all times.

10. Whether or not the applicant or any other person(s) having an interest in the establishment (including the designated security managers) have been convicted of a misdemeanor or felony offense, and, if so, the nature of such offense(s), and the sentence(s) received therefor, including whether any person so convicted remains on probation or parole;

11. A "Land Use/Building Permit Clearance" form or other required approval issued by the Community Development Department certifying in writing that the zoning for the dance establishment premises allows such a use as that being proposed and that all required building and other uniform construction code permits necessary to legally operate the establishment have been duly obtained and an approved final inspections have been received; and

12. Completed Police Department fingerprinting for the applicant(s) (including all persons having an ownership interest in the dance establishment to be permitted) as well as fingerprinting for the required designated security managers and the establishment's designated general manager(s).

13. The submission to the Police Department of a written inspection report on the dance permit establishment location prepared by the City Fire Marshal in order to allow the Department to assess and review the dance establishment's compliance with the Uniform Fire Code requirements as adopted by the City.

14. Such other information as the Police Chief shall deem necessary for the proper processing and review of the application.

5.20.060 Public Noticing of Dance Permit Applications.

A. NIGHTCLUB DANCE PERMIT NOTICING. Notice of the required Board of Fire and Police Commissioners public hearing regarding the issuance of a Nightclub Dance Permit shall be provided to the public by the applicant in each of the following ways:

1. Mailed Notices to Neighbors. Written Notice of the Board hearing shall be sent by first class United States mail (postage prepaid) not less than ten calendar days prior to the scheduled Board hearing to all owners of real property as shown on the latest equalized assessment roll within a radius of two hundred feet (200) from the real property parcel for which the Nightclub Dance Permit is proposed.

2. Posting the Exterior of the Premises. The applicant shall post a notice on the exterior of the establishment for which the Nightclub Dance Permit is sought at least fourteen (14) calendar days prior to the Board hearing and for no less than ten consecutive

days in a visible location in a manner as required by the Chief of Police.

3. Contents of Required Public Notice and Posting. The Chief of Police will provide an applicant with the required form of the notice to be mailed and of the posted notice necessary to provide public noticing required by this Section and only such forms of notice shall be used for this purpose as established in the approved Dance Permit Ordinance guidelines.

B. LIMITED DANCE AND LIVE ENTERTAINMENT DANCE PERMIT NOTICING. Public noticing of a dance permit application for a Limited Dance permit or for a Live Entertainment Dance Permit need only be provided by posting of the notice in accordance with subparagraph (A)(2) above, unless the Chief of Police determines that additional public notice requirements (including mailed notices) consistent with this Chapter are appropriate under the circumstances of the particular application.

5.20.070 Issuance of Certain Dance Permits - Administrative Issuance of Permits by Chief of Police; Board Hearing Procedures for Nightclub Dance Permit Applications.

A. ISSUANCE OR RENEWAL OF A LIMITED DANCE PERMIT OR A LIVE ENTERTAINMENT DANCE BY THE CHIEF OF POLICE.

1. Issuance. Upon the completion of the required public posting of an application for a Limited or Live Entertainment Dance Permit as established by Section 5.60.060(B), an application for a Limited Dance Permit or for a Live Entertainment Dance Permit shall be issued in the first instance by the Chief of Police (or the Chief's designated departmental representative) after the completion of a public meeting on the application at a date, time, and location established for the meeting by the Chief and as stated in the public noticing for the dance permit application.

2. Conditions of Approval; One Year Validity; Process for Renewal. Limited and Live Entertainment Dance Permits may be conditioned as deemed appropriate by the Chief of Police in accordance with the standard permit conditions provided for in Section 5.20.080 hereof. Limited Dance Permits and Live Entertainment Permits issued under this subparagraph shall be valid for a period not to exceed one year and may be renewed annually, upon application, by the permittee filed not less than thirty (30) days prior to the expiration date of the permit. Upon a denial of a permit, or refusal of an applicant to accept a required condition of approval, the

Chief shall provide the applicant with written explanation of the reasons for the denial or for the condition and such reasons shall be one or more the grounds for denial set forth in subsection C hereof.

3. Renewal Applications. A renewal of Limited or Live Entertainment Dance Permit need not require a new application provided that original application information remains current and correct and the renewal request is consistent with the requirements established for such requests in the Dance Permit guidelines authorized by this Chapter.

4. Referral of a Limited or Live Entertainment Dance Permit to the Board. The Chief of Police, when appropriate, may refer an original application (or a renewal application) for a Limited or Live Entertainment Dance Permit for premises located within the City's Entertainment District to the City's Board of Fire and Police Commissioners for action on the application consistent with the requirements of this Chapter.

B. APPROVAL, CONDITIONAL APPROVAL, OR DENIAL OF A NIGHTCLUB DANCE PERMIT APPLICATION. Within 45 days of the filing of a completed application for a Nightclub Dance Permit (as such completion is determined by the Chief of Police) and upon the completion of the public noticing required by Section 5.60.060, the Board of Fire and Police Commissioners shall review the application for a Nightclub Dance Permit and either issue the permit, issue the permit with appropriate conditions consistent with Section 5.20.080 hereof, or deny the application for a Nightclub dance permit.

C. GROUNDS FOR DENIAL OF A NIGHTCLUB DANCE PERMIT. The Board shall deny an application for a Nightclub Dance Permit only when it has evidence sufficient to make or one or more of the following findings for denial:

1. The applicant has made a false statement of material fact on the dance permit application or has omitted a material fact as part of the dance permit application.

2. The applicant or any person designated by the applicant to exercise on-site managerial control over the nightclub has been convicted of a crime substantially related to the qualifications, functions, or required duties of a permittee within the past five years.

3. The operation of a nightclub at the proposed permit location will interfere with the peace and quiet of a substantial number of persons living in residential dwellings in the vicinity of the dance permit location such that it would deprive the occupants of such dwellings of the reasonable and use enjoyment of their residential property.

4. The building within which the nightclub will be located is inappropriate or unworkable for its intended nightclub use because it will be inadequate for some or all of the following reasons: a. it will not provide adequate noise control necessary to restrict the noise of the dance club to within the structure; or b. it lacks the appropriate and necessary ingress and egress for entering or exiting the structure in terms of its occupancy limitations and the applicable fire code requirements.

5. The proposed plan for maintaining security at the nightclub is inadequate.

5.20.080 Permissible Dance Permit Conditions.

A. IMPOSITION OF CONDITIONS. The Chief of Police (or his designee) or the Board may, upon issuing a Dance Permit, impose the following permit conditions relating to the operation of the dance establishment.

1. A condition limiting the days, hours and location of the operation of the dance establishment and establishing that dancing shall not be permitted under any circumstances between the hours of 1:30 a.m. and 8:00 a.m.;

2. A condition restricting separate entrances, exits, and restroom facilities on the premises, or other similar restrictions designed to prevent minors from obtaining alcohol are required;

3. A condition on the number of persons allowed on the premises at any one time;

4. A condition requiring full compliance with the security and noise mitigation plans as approved;

5. A condition mandating that the closure of certain doors and windows are required and, if necessary, the appropriate hours for such closures;

6. Conditions describing the circumstances under which the Chief of Police must receive advance notice of a particular dance event or a business promotion if that event/promotion is not held as part of the regularly scheduled events of the business;

7. Any additional conditions or measures the establishment must undertake as security precautions in order to control the conduct of patrons as necessary to minimize or prevent disorderly conduct or fighting or overcrowding within the permit establishment;

8. A condition imposing those measures the permittee must undertake to remove trash attributable to the establishment (including in and around the establishment);

9. Such other conditions or measures related to public health, safety, and welfare as the Chief of Police may deem appropriate which may be needed to maintain appropriate security within the establishment (and public areas immediately adjacent to the establishment) or to minimize adverse noise impacts on the neighboring property owners or residents.

5.20.090. Appeal From Denial or From Conditional Approvals or From a Renewal Application.

A. NIGHTCLUB DANCE PERMIT APPEALS. The denial or approval (including any conditions imposed thereon) of any application for a Nightclub Dance Permit under this Chapter by the Board of Fire and Police Commissioners may be appealed to the City Council by the applicant or by any interested person pursuant to the provisions of Section 1.30.020 of this Code. This right of appeal shall also include an action taken by the City with respect to the renewal or non-renewal of a Nightclub Dance Permit.

B. LIMITED PERMITS OR LIVE ENTERTAINMENT PERMIT APPEALS. The denial or the approval (including any conditions imposed thereon) on any application (including a renewal application) for a Limited Dance Permit or a Live Entertainment Dance Permit by the Chief of Police may be appealed to the City Administrator which decision on appeal shall be final. The City Administrator is hereby authorized to refer such an appeal to a more appropriate hearing officer or body in the manner described in subsection (b) of SBMC Section 1.30.050, as the City Administrator may deem appropriate. Such a referral may be for the purposes of obtaining a recommendation on the appeal or for other appropriate action on the appeal. This right of appeal shall

also include any action taken by the City on a Limited or Live Entertainment Dance Permit renewal application.

Section 5.20.100 Duration of Dance Permits.

A. NEW PERMITS - ONE YEAR DURATION. A dance permit issued pursuant to this Chapter shall be valid for one year from the date of issuance.

B. DATE OF EXPIRATION FOR PERMITS VALID AS OF THE ADOPTION OF THIS CHAPTER. Unless an earlier expiration date is specified in a valid dance permit itself, a dance permit issued on or before the effective date of the ordinance enacting this Chapter shall be valid for one year following the anniversary date of the original issuance of the establishment's valid dance permit.

Section 5.20.110 Renewal of Dance Permits.

A. RENEWAL APPLICATION. A dance permittee may apply for dance permit renewal by submitting an application for administrative renewal to the Police Chief not less than 30 days prior to the expiration of any dance permit.

B. EXPIRATION STAYED. If a timely and complete application for renewal is filed, the dance permit's expiration date may be stayed at the discretion of the Chief of Police until a decision on the renewal application has been issued by the Chief.

C. POLICE CHIEF TO RENEW. The Police Chief shall review and approve the renewal of a dance permit if the Chief determines that no circumstances existed during the term of the prior valid dance permit which circumstances would justify the suspension or revocation of the permit as specified in Section 5.20.150 or which circumstances necessitate revisions to the conditions of approval imposed on the Permit.

E. REFERRAL OF RENEWAL APPLICATION TO BOARD. Notwithstanding the above, the Police Chief may refer a decision on the renewal or non-renewal of a Nightclub Dance Permit to the Board of Fire and Police Commissioners for a hearing and decision on renewal application in the first instance and in a manner consistent with the requirements for an original Nightclub Dance Permit application.

5.20.120 Display of Dance Permits.

A dance permit issued pursuant to this Chapter shall at all times be publicly displayed in a conspicuous place within the dance establishment for which it was issued. In addition, a copy of the Permit and any conditions of approval shall be immediately produced and made available upon the request of any City fire inspector or City police officer.

5.20.130 Dance Permits Not Transferable.

A. TRANSFERS GENERALLY. Dance Permits issued pursuant to this Chapter are not transferable or assignable to another person or location whether by operation of law or otherwise. A transfer or assignment includes, but is not limited to, the following:

1. **Partnership and LLC Transfers.** If a permittee is a partnership, or a California limited liability company, a transfer of capital interest to a new partner or partners (or members) which computed alone or cumulatively with previous transfers would result or has resulted in the transfer of ownership of a more than twenty-five percent (25%) interest in the capital of the partnership or limited liability company.

2. **Corporations.** The transfer of more than twenty-five percent of the voting stock in a corporation which is either itself the permittee or is a general partner in a partnership which is the permittee.

B. CHANGES IN "DBA" STATEMENT. Any changes made by an applicant or permittee to the "doing business as" statement of the dance permit establishment shall be reported to the Police Department in writing within 30 days of such a change.

5.20.140 Dance Permittee Reporting of ABC License Violations.

A dance permittee shall report all ABC license violations occurring at the permitted business to the Chief of Police within 48 hours of the issuance of the notice of violation by the ABC to the permittee or the permittee's agent.

5.20.150 Suspension or Revocation of a Dance Permit.

A. SUSPENSION OF PERMIT BY POLICE CHIEF. The Police Chief may act to temporarily suspend any dance permit issued pursuant to this Chapter when, in the Chief's determination, a person holding a permit has violated any condition imposed on the issuance on the permit or the operation of the dance establishment has occurred in a way that constitutes an on-going public nuisance.

A suspension shall be valid for a period not to exceed sixty (60) days from the date of the suspension unless, in the case of a Nightclub permit, a suspension is appealed by the permittee to the Board of Fire and Police Commissioners pursuant to this section or the permittee has received a notice of revocation during the sixty (60) day suspension period, in which case the suspension shall be until the

Board completes a revocation hearing and issues a written decision on revocation if such a hearing is requested by the permitted in a timely fashion.

B. REVOCATION OF A DANCE PERMIT. The Police Chief may, at the Chief's discretion, issue a written notice of intent to revoke of a dance permit to a dance permittee. Such an intent to revoke shall be based only upon the Chief's receipt of information that one of the grounds for revocation listed herein has occurred. A notice of revocation shall be effective not less than ten (10) days after the issuance of a notice of intent to revoke.

C. APPEAL OF A SUSPENSION/REVOCATION DETERMINATION. A permittee who has received a notice of intent to suspend or a notice of intent to revoke a dance permit may appeal the proposed suspension or revocation to the Board of Fire and Police Commissioners by filing a written notice of appeal with the Chief of Police within 10 days of the date of the mailing of the notice of revocation or the notice of suspension.

D. SUSPENSION/REVOCATION APPEAL HEARING. An appeal of the proposed suspension or revocation of a dance permit shall be conducted by the Board in accordance with the requirements of SBMC Chapter 1.30.

E. GROUNDS FOR SUSPENSION OR REVOCATION. The suspension or revocation of a dance permit shall be based on a written finding, supported by adequate evidence, that one or more of the following circumstances has occurred with respect to the operation of the establishment holding the dance permit:

1. That the Permittee has allowed repeated violations any provision of this Chapter, the Municipal Code, or any statute, ordinance, or regulation relating to his or her permitted business activity to occur; or

2. That the Permittee has allowed repeated violations of state Penal Code Section 415 or the City's Noise Control Ordinance (SBMC Chapter 9.16) to occur within or immediately adjacent to the real property upon which the permitted premises; or

3. That the Permittee has engaged in violations of the state statutes or regulations related to the sale or distribution of alcohol (particularly with respect to the sale of alcohol to persons under 21 years of age) as determined by the ABC; or

4. That the Permittee has failed to take reasonable measures to control the security of the establishment's patrons with appropriate crowd control measures such that instances of overcrowding in violation of Uniform Fire Code occupancy requirements has occurred on more than one occasion; or

5. That the Permittee has repeatedly failed to comply with the permit conditions imposed pursuant to this Chapter; or

6. That the Permittee has substantially altered or changed the approved interior site plan floor configuration or security plan.

F. APPEAL OF REVOCATION OF NIGHTCLUB PERMIT; REQUIREMENT FOR PRIOR MEDIATION.

1. Right to a Appeal Hearing by the City Council. The decision of the Board revoking or suspending a Nightclub Dance Permit may be appealed by the Permittee to the City Council pursuant to Section 1.30.020 of this Code.

2. Required Participation In Mediation. No such Nightclub Permit appeal shall be heard by the City Council unless, prior to the Council appeal hearing date, the appellant (where the appellant is not the permittee) shall have offered to participate in a private mediation process with the permittee in order to determine if the appellant's concerns with the permit application (or its operation) can be appropriately addressed by mutual agreement entered into by mediation and such mediation has been completed. Such a mediation shall take the form described in Municipal Code Section 22.76.070 of this Code and the regulations adopted pursuant to this Chapter. The written recommendation of the mediator shall be forwarded to the City Council in connection with any Council appeal hearing.

5.20.160 New Permit Application After Revocation or Denial.

A. NO NEW APPLICATION-REVOCATION. When a dance permit is revoked or the initial application denied, no new application for a dance permit from the same person or persons as permittee shall be allowed within one (1) year after such revocation or denial.

Section 5.20.170 No Outdoor Dancing - Nightclub Permits.

No outdoor dancing may be permitted under a Nightclub Dance Permit or Live Entertainment Dance Permit issued for a location within the City's Entertainment District.

Section 5.20.180 Pre-Approval Application Process.

An applicant for a Nightclub dance permit which is not in legal possession or control of the real property upon which proposed dancing establishment would be operated may, at the applicant's discretion, apply pursuant to this Chapter for the conditional issuance of a Nightclub dance permit which permit shall, thereafter, be deemed issued only upon a written request to do so signed by the owner of the real property and by the applicant and provided to the Chief of Police.

Section 5.20.190 Adoption of Rules and Regulations; Application/Renewal Fees.

The Chief of Police may adopt reasonable rules and regulations (including the setting of appropriate application and renewal fees and the establishment of required application forms) not inconsistent with this Chapter for the public noticing of application and for the review, granting, renewal, or denial of permits hereunder and the conduct of the permitted dance activities which rules, regulations and fees shall be subject to the approval of the City Council by resolution. Copies of such rules and regulations shall be furnished to each dance permittee with the issuance of a dance permit and shall include an enforcement matrix chart describing a process for progressive administrative actions with respect to complaints about dance establishments and violations of this Chapter.

Swiley/ord/Dance Permit Amendment-intro draft

January 3, 2008

STOCK TRANSFER LEDGER Those Guys, Inc.

| Name of Shareholder | Place of Residence | Date Became Owner | From / To Whom Stock Transferred | Certificates Surrendered | | Certificates Issued | | Amount Paid Thereon | Balance Interest Held | Date Of Transfer |
|---|--------------------|-------------------------|---|--------------------------|------------------|---------------------|------------------|---------------------------|-----------------------------|------------------------|
| | | | | Cert Nos. Rec'd. | Shares Rec'd. | Cert Nos. Iss'd. | Shares Iss'd. | | | |
| | | | | | | | | | | |
| Salvatore M. DeSimone | | 5/8/98 | Original | | | 800 | 1 | \$800 | 0 | 10/12/02 |
| William P. Hales | | 5/8/98 | Original | | | 320 | 2 | \$320 | 0 | 6/22/98 |
| Spieß Family Trust/1992 | | 5/8/98 | Original | | | 160 | 3 | \$160 | 0 | 6/22/98 |
| Brent A. Spiess | | 5/8/98 | Original | | | 80 | 4 | \$80 | 0 | 6/22/98 |
| Roberta L. Parsley | | 5/8/98 | Original | | | 80 | 5 | \$80 | 0 | 6/22/98 |
| Bonnie J. Foster | | 5/8/98 | Original | | | 80 | 6 | \$80 | 0 | 6/22/98 |
| David Hales | | 5/8/98 | Original | | | 80 | 7 | \$80 | 0 | 6/22/98 |
| Salvatore M. De Simone | | 6/22/98 | Nos. 2 - 7 | Nos. 2 - 7 | 800 | 800 | 8 | 0 | 0 | 10/12/02 |
| Diane Harding | Lost | 10/12/02 | S. DeSimone | #1 | 240 | 240 | 9 | | 0 | 4/5/06 |
| Salvatore DeSimone | | 10/12/02 | S. DeSimone | Nos. 1 & 8 | 1,360 | 1,360 | 10 | 0 | 0 | 3/03 |
| Void/Cancelled | | | | | | | 11 | 0 | 0 | n/a |
| Lawrence DeSimone & Josephine DeSimone | | 3/03 | S. DeSimone | #10 | 1,360 | 1,360 | 12 | | 0 | 5/23/06 |
| Diane Harding | | 4/5/06 | Replace #9 | | | 240 | 13 | | - | |

[illegible]



September 5, 2008

Lawyers

Homer G. Sheffield, Jr.

William K. Rogers

Scott B. Campbell

Philip I. Moncharsh

Marlea F. Jarrette

Peter A. Muzinich

Mayor Marty Blum and
Members of the City Council
P.O. Box 1990
Santa Barbara, CA 93102-1990

Re: September 16, 2008 Agenda Item
Dance Permit Appeal - Madison's Grill & Tavern - 525 State Street

Of Counsel

Fred S. Furst

Stephen W. Erickson

427 East Carrillo Street

Santa Barbara,

California 93101

Telephone: (805) 963-9721

Fax: (805) 966-3715

E-mail:

rs@rogerssheffield.com

Mailing Address

P.O. Box 22257

Santa Barbara,

California 93121-2257

Dear Mayor Blum and Members of the City Council,

While at Reetz, Fox & Bartlett, LLP, I was the attorney primarily responsible for representing the shareholders of Those Guys, Inc., a California corporation (the "Company") which owns the business known as "Madison's Grill & Tavern," in a purchase and sale transaction.

I prepared a purchase and sale agreement between the existing majority shareholders, Lawrence and Josephine DeSimone, and the buyers, Derek and Diane Harding and a third party (the "Transaction"). Subsequent to the initial purchase, the third party was bought out by Derek and Diane Harding. The current ownership of the Company is as follows: (i) Diane and Derek Harding as to 90% of the issued and outstanding stock; and (ii) Lawrence and Josephine DeSimone as to 10% of the issued and outstanding stock.

In negotiating the Transaction and preparing the purchase and sale agreements between the parties, the issue of transferring the existing dance permit or applying for a new permit simply was not contemplated or considered by the parties when negotiating the Transaction. I am a business attorney and I am not specifically familiar with the restaurant and bar industry on State Street in Santa Barbara. Further, it was my understanding and assumption, and I believe that of all the parties, that anything not specifically provided for in the purchase and sale agreement was owned by the Company and did not need to be transferred or assigned.

Diane and Derek Harding are now aware that the dance permit is or was in the name of Larry and Josephine DeSimone and needs to be specifically transferred to the Company or themselves, as individuals.

Mayor Marty Blum and
Members of the City Council
September 5, 2008
Page 2

The purpose of this letter is to inform you that there was no intent on the part of any of the parties involved in the Transaction to circumvent, ignore or disrespect any regulations or requirements for the City of Santa Barbara related to the dance permit. The transfer of the dance permit between the parties simply was not contemplated or discussed and Diane and Derek Harding were unaware that it should have been handled as part of the transaction.

Please also note that I have the utmost respect for Diane and Derek Harding as hardworking small business owners in this community. I respectfully request that you process and approve the dance permit request of Derek and Diane Harding. I am planning on personally attending the City hearing date on September 16, 2008, and will be happy to answer any questions or discuss any concerns you may have.

Thank you for your consideration of this matter.

Very truly yours,



Peter A. Muzinich, Esq.

MUZ/asb

cc: Derek and Diane Harding

LAW OFFICES
REETZ, FOX & BARTLETT LLP
116 EAST SOLA STREET
SANTA BARBARA, CALIFORNIA 93101
TELEPHONE: (805) 965-0523 • FAX: (805) 564-8675
E-MAIL: admin@reetzfox.com

August 27, 2008

Mayor Marty Blum
Members of the City Council
Post Office Box 1990
Santa Barbara, CA 93102-1990

SEPTEMBER 16, 2008 AGENDA
DANCE PERMIT – MADISON'S GRILL & TAVERN – 525 STATE STREET

Dear Mayor Blum and Members of Council,

My office has represented Madison's Grill & Tavern in the past, and in particular in 2006 when the Corporation's existing major shareholder, Lawrence and Josephine DeSimone, sold their then remaining shares to Derek and Diane Harding, who already owned 15 percent of the corporation's shares and had served for a number of years as onsite managers. The remaining shares were to be sold to another third party, however, because of issues that arose between the Hardings and the third party, the Hardings wound up acquiring 90% of the corporation's stock and Lawrence and Josephine DeSimone retained 10% ownership. This is the situation currently.

Importantly, in 2006, when DeSimones sold to Harding the purchase agreement contained the following representation and warranty:

"2.6 Governmental Approvals and Filings. Other than the consent of the California Alcoholic Beverage Control Board regarding transfer of liquor licenses, no consent, approval or action of, filing with or notice to any capital Governmental or Regulatory Authority on the part of seller or the company is required in connection with the execution, delivery and performance of this agreement or the consummation of the transactions contemplated hereby."

It has now come to light that the dance permit for the premises was never held by the corporation, but instead had been held by the DeSimones. Derek and Diane Harding did not know that the dance permit was issued to Mr. DeSimone individually, and relied on Mr. DeSimone's representation and warranty that all of the permits to conduct business as had been occurring in the past were in good order.

REETZ, FOX & BARTLETT LLP

Mayor Marty Blum
Members of the City Council
August 27, 2008
Page 2

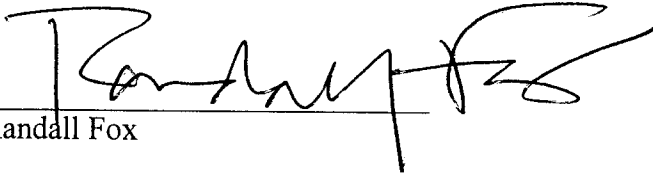
In April, the Hardings learned that that the corporation did not hold the permit and immediately sought approval to dance at the premises consistent with their past and existing operations. They are surprised to learn that Mr. DeSimone's representation and warranty to them was not correct, and ask that you not penalize them because of their good faith reliance on the transaction to acquire Madison's Grill and Tavern.

Please issue a dance permit for Madison's Grill and Tavern and 525 State Street to the corporation known as Those Guys, Inc. which has owned and operated the property since 1996.

Thank you for your courtesy and cooperation in this matter.

Sincerely,

REETZ, FOX & BARTLETT LLP



Randall Fox

RF/aml

Harding\Mayor 08.08.26

cc. Iya Falcone, Council Member
Dale Francisco, Council Member
Grant House, Mayor Pro Tempore
Roger Horton, Council Member
Hélène Schneider, Council Member
Das Williams, Council Member
Barbara Sansone,
Executive Assistant to Fire and Police Commission
Derek & Diane Harding, Those Guys, Inc.

EXHIBIT

A

MADISON'S EMPLOYEE TRAINING MANUAL

CONTENTS :

- I. INTRODUCTION
 - A. Welcome!
 - B. About the Company
 - C. Our Menu
 - D. Wine & Beer List
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- II. CONDITIONS OF EMPLOYMENT
 - A. Terms
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 - C. Harassment Laws
 - D. Contract of Mutual Agreement
- III. ORIENTATION
 - A. Restaurant layout
 - B. Employee facilities
 - C. Server stations
 - D. Storage room
 - E. Restricted areas
- IV. SAFETY AWARENESS
 - A. Emergency situation
 - B. Procedure & instructions
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- VII. BUSSER DUTIES
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- IX. SABLE INSTRUCTION
- X. SERVER TRAINING
 - A. Significance & Objective
 - B. Tips of the Trade
 - C. 10 steps to Excellent Service
 - D. Paperwork & Accounting
 - E. The Flow of Service
- XI. BARTENDER DUTIES
 - A. Bartending 101
 - B. Checking I.D.'s
 - C. Liability Law
 - D. Accountability
 - E. The Art of Up selling
 - F. 7 Rules of bartending
- XII. VERBAL REVIEW
- XIII. EVALUATION

Etiquette:

1. While on duty, all personal issues are to be kept personal and tended to off the premises.
2. **Use common sense:**
 - **If something falls, pick it up... If you see a mess, clean it up.**
 - **If you open it, close it... If you move something from it's place, return it.**
 - **If something is broken asked to have it fixed.**

This is the level of organization we strive for. If you find anything that is not as it should be... Though you may not be responsible for it, please be considerate and fix it.
3. If we are low or out of something, please bring it to the attention of management immediately.
4. If you have a better way of doing something, share it with management. If someone is not pulling their weight, tell management. To let these things go un-noticed will only breed animosity and resentment, two things' that will not be tolerated at Madison's.
5. Failure to follow any of these policies and procedures will be taken as an indication that you are not willing to participate in helping Madison's grow into a successful, well managed organization and that you are not interested in continuing your employment with the company.
6. Here at Madison's we encourage powerful suggestions, eager ideas, and constructive criticism. Common courtesy is demanded, and because of that, speaking out of turn (especially in mixed company) in a confrontational or combative attitude will not be tolerated, and will result in immediate grounds for dismissal.
7. If you have any suggestions, comments, or concern's please address them immediately to a member of the management team who will set aside the necessary time to discuss them. We have created a form to help you efficiently communicate your ideas and suggestions. Please see Part X: Section E. of this manual for a sample copy of this form.

*Remember...It is a well known fact that the tone of your voice, the look on your face and demeanor you use, will directly affect the response of the person you are addressing, and in turn, result in the same behavior toward you. **Always, try your best to say "Thank You" and "Please" and no matter how hard...Smile!**

Initial: _____

Customer Service:

1. The service industry is the business of pleasing people and making them smile. **Please greet your customers with enthusiasm and within 1 minute from the moment they arrive. If you are busy attending to something else, make immediate eye contact with a smile assuring them you'll be right there.**
2. When approached by an individual and questioned about something you are unsure of, please refer the question to a manager immediately for the accurate information.

Initial: _____

Empty hands policy:

We at Madison's, all work together as a team. We strongly believe that there is always something to do. Whether it be ensuring the tidiness of the restaurant, bussing tables, helping a manager with assorted tasks, assisting a teammate, or just tending to your own assigned obligations. There is always something that can be picked up off the floor, from a table, or carried to the back. Hence, the term "empty hands policy".

Initial: _____

RBS Training:

It is mandatory that all Madison's staff members receive Responsible Beverage Service training. The first Wednesday of every month an RBS training class is held by the Santa Barbara Police Dept and all new staff members must attend.

Initial: _____

EXHIBIT

B

MADISON'S EMPLOYEE TRAINING MANUAL

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Confidential Information:

NO ONE is permitted to remove or make copies of any Madison's records, reports, documents or personnel files without prior management authorization and approval. Please refer any questions to the corporate office (805) 560-1393. Disclosure of any confidential information could lead to termination, as well as other possible legal action.

Initial: _____

Employee Parking:

Madison's does not have parking available for it's employees. Due to this fact, you must allow yourself ample time to find suitable parking upon arrival for work. Lateness, due to parking problems is still considered lateness and you will be written up.

Initial: _____

Drinking on the job:

Absolutely no drinking of alcoholic beverages whatsoever is permitted while on duty. If a customer offers to buy you a drink or perhaps do a toast with him, you may accept a soft drink of some kind, or decline the offer altogether until you are off duty.

***Drinking on the job will result in immediate termination!**

Initial: _____

Checking I.D.'s

No one under the age of 21 is allowed into the restaurant, unless accompanied by their parent. The legal age for the purchase or consumption of any alcoholic beverage in the state of California is 21. As such, it is the responsibility of both the bartender/server and manager to check the identification of anyone (unless visually old enough to be your parent) who would like to come in. If a customer is of questionable age & does not have their ID with them, they will be refused entry. If the customer still insists that they "come here all the time" you may consult a manager who will then decide if that is the case, only then will they be allowed service. Under RBS guidelines, the only acceptable form of identification is a valid drivers license (however, you can accept a military ID or a passport w/photo). If you are suspicious of an ID's validity because the picture or description vaguely resembles the guest, the drivers license itself appears to be out of the ordinary, ie: peeled edges, out of state, soft plastic laminate, or odd print/font, consult a manager. Remember, we reserve the right to refuse service to anyone. Unacceptable forms of identification are: birth certificate, school ID, green card, gym membership card, credit cards or versatel cards. Failure to comply with federal and state laws may result in immediate termination, the possibility of a \$500-\$5000 fine issued by the Department of Alcohol & Beverage Control, and the potential suspension or revocation of our liquor license.

Initial: _____

F.Y.I. : Third Party Liability Law:

The State of California's third party liability law states that, a bartender or establishment that has served a customer alcohol to the point of intoxication, be held liable for any damage done by that individual to a second party. If you suspect a customer to have consumed too much alcohol, you may offer our guest some water and immediately bring it to the attention of our manager who will disarm any potential negativity.

Initial: _____

In House Security:

Madison's Grill & Tavern has 16 security cameras located throughout the building and is under 24 hour security surveillance.

Initial: _____

Liability Awareness:

Whether you are a bartender or a server, your section is your responsibility. You are accountable for your customers comfort level, dining experience & overall good time... you are also liable for 50% of the payment on any walk-outs i.e: "dine n' dashers". It is recommended that you stay within your section

EXHIBIT

C

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MADISON'S GRILL & TAVERN

FACT SHEET

Hours of Business: Monday's we open at 4:00pm. Tuesday-Friday we open for lunch at 11:30am. Saturday & Sunday we open at 11:00am. Madison's "Happy Hours" are between 4:00pm-7:00pm & 7:00pm-9:00pm Monday-Sunday.

Dinner will be served nightly until 10:00pm. The bar will remain open until 2:00am, with last call at 1:15am. During football season, we will open at 10am on Saturdays & 9:30am on Sundays. Breakfast will be served on Sunday until 11:30am, at which time we will proceed with the lunch menu (times above are subject to change).

Our Address: Madison's is located at 525 State Street, between Cota St. & Haley St., in the heart of "Old Town" Santa Barbara.

Our Phone Numbers: Telephone: (805) 882-1182 Fax: (805) 882-1199

Proprietors: Diane & Derek Harding **Share Holders:** Lawrence & Josephine DeSimone

Managers: Jeremy Woodul, Conrad Woodul, Heather Bradshaw and Emily Stuart

Security Manager: Lance King

Chef: Conrad Woodul

Forms of Payment Accepted: Mastercard, Visa, American Express, Cash & Travelers Checks and gift certificates. We do not accept personal checks or IOU's. Travelers' checks are only accepted with an I.D. to confirm signature. The I.D. number should be documented on the front of the check as well.

Entry & Exit: Upon arrival for or departure from work, all employees must use the "main" State Street entrance, unless scheduled as the opener at which time he or she must enter through the back door. Otherwise, the back door is to remain closed at all times and only to be used as an emergency exit, or for delivery purposes.

Initial: _____

EXHIBIT

D

Madison's Security System Training Manual

As with any good system, Madison's Security System is designed to anticipate, and eliminate long term, predictable problems.

TYPICAL PROBLEMS ASSOCIATED WITH THE BAR INDUSTRY

Underage drinkers-fake IDs
Wrong "element" trying to gain entry
Dress code violations
Over indulging/asking intoxicated customers to leave
Fights
Poor customer flow
Damage to building and company property
Customer challenging security staffs' authority
Customer in unauthorized area in building
Hazard caused spilled drinks/vomit
Customer tearing apart restrooms
Female patrons being harassed by customers
In the event of a fight, people rushing to the door, windows, and outside
Bartenders running out of glassware, ice, bottled beer, full trash
Over occupancy (fines, shut down)
Designated smoking area out front
Friends of "troublemaker" ganging up on security
Handling VIP that fall from grace
Ill-will caused by removing tables, chairs, furniture, etc
Theft of pictures and other Madison's memorabilia
Theft of mugs and glassware
Customers smuggling flasks, beer cans/bottles, liquor, etc, into Madison's
Customers attempting to leave/go outside with liquor in hand
Customers trying to force themselves to front of line
Customers insisting they know the owner/manager (insisting on special treatment)
Customers asking for manager when there is a line
Customers opening drapes and tugging on wooden blinds
Girls trying to use the men's room or vice versa
Guys accompanying women into men's room
Customers sitting on dance floor rail or bar top
Illegal sexual displays (nudity)
Customer falling asleep (over intoxicated or drug use)

Overcrowding leading to bumping into each other/spilling drinks on each other

Customers reaching over bar top

Underage diners attempting to remain as bar patron

The slap fight/wrestling match that turns into a fight between two drunk friends

Customers leaving building to go to their car and drink (no in and out) unless VIP

"My friend/girlfriend is inside, can I give you my ID and find her/him"

Customers giving Madison's staff a hard time

People with open tabs trying to get back into Madison's by not waiting in line

WHAT IS A TYPICAL MADISON'S CUSTOMER?

At Madison's, we strive to attract and maintain a high level of repeat customers. Given this fact, most of our customers are regular visitors and have known each other socially for at least two years. This type of customer base rarely finds a need to fight amongst themselves or disobey the rules we have established at Madison's.

The typical Madison's customer "fears" our security team far less than they "fear" being 86'd from Madison's. To be "banned" from their favorite bar is to be locked out of their social life and locked away from their friends. This is especially true of our graduating seniors who have spent four to five years cultivating a core group of close friend and acquaintances. To 86 them from Madison's would be socially devastating.

Given Madison's high profile, it is not uncommon for us to receive non-regular customers such as tourists, working professionals, etc. these customers unfortunately do not know the rules, have not known the average customer for two years or more, and have no fear of being 86'd from their core group of friends and social life.

During certain times of the year (summer, holidays, the 1st 3 weeks of each quarter) and during special events (Halloween, Graduation, Fiesta) a large group of non-regular customers "overtake" Madison's. It is at these times that we face the likelihood of problems and must lean the most heavily on our Security System and available tools.

MADISON'S SECURITY SYSTEM TOOLS

1. The Madison's uniform (includes Madison's black T-shirt, black jeans/slacks, black belt, and black Doc Martin type boots, wristwatch.)
2. Flashlight, counter, pen and pad of paper.
3. Positive self-assured attitude
4. Teamwork

MADISON'S FOUR STEP SECURITY SYSTEM

The following steps, if followed, should prevent 90% of the anticipated problems mentioned above:

1. **Busboy With Muscles.** Security personnel should consider themselves, first and foremost, as busboys with muscles. Security must aggressively bus the entire bar including throwing bottles into the designated area and dropping off glassware to bar. Please pay special attention to bussing the restrooms, floors, sub-woofer cabinets, etc. Also, as a busboy with muscles, you should aggressively look for spills such as vomit and mop it up quickly (a mop will be handy by sections #2 & #6).
2. **F & F Management (Facility and Flow).** Facility Management will include keeping the drapes shut, insuring all tables and chairs are where we want them and monitoring own trash can. Flow Management is enabling customers to move around the bar freely. Key areas to keep clear include: The front door entry way, a pathway to the back bar, the stairs on both the front/back elevated areas, the hallway in front of the DJ, coat room & bathrooms. (Key phrases to use with flashlight at their feet: "I'm going to have to ask you to keep moving please. We need to keep this entry way clear." Followed by "thank you very much." Followed up by saying "please feel free to stand where ever you like, we just cannot have you standing in this entry way or (pointing at other area with flashlight) or other entry way at the other side of the bar." For the stair area: "We need to keep the stair area clear, can I ask you to please move up onto this area or down the stairs to the bar area please." While gently patting on them on back. "Thank you very much. We really appreciate it." For front door area or patio: "The fire marshal has asked us to keep this area clear. I'm going to have to ask you either go inside the building now please/I'm going to have to ask you to move beyond the patio area." Again say, "Thank you very much, we really appreciate it. (This is a very serious issue with the fire marshal). Be prepared to use these key phrases literally hundreds of times per evening. In doing so, you will "train" your customers who will in turn "train" their friends the rules of Flow management at Madison's.
3. **Aggressively Seek Out:** drunks, tough guys, arguments, friends of tough guys and drunks, and big boys. Madison's must never and will never tolerate or allow a noticeably intoxicated patron to remain in the building. Removing this patron provides many benefits including protecting bartenders from receiving large fines for serving over intoxicated customers (the first fine is \$2000, second fine is \$5000). Preventing this from happening is the main reason (along with bussing) for receiving tips from the bartenders. The second benefit is that an occupancy slot is open for another sober patron to come in and spend more money at the bar (more money, more tips). The third benefit is that the patron does not get a D.U.I. On a typically busy night there should be no fewer than ten to fifteen people asked to leave for being over intoxicated.

Aggressively seek out and befriend big boys. Why? Because big boys hang out with other big boys and if properly handled, can be called upon to help control their friends. If used properly big boys can act as extended members of our security team (versus antagonists who get in the face of our security team). This can best be accomplished by giving them a warm greeting when you first see them. Follow this up on the next lap around the bar by making eye contact and asking them if they are having a good time. If their friend is out of line, you now have earned the right to ask them "can you please help us with your friend, he's starting to get a little out of hand?" In addition, aggressively seek out men and women who are arguing (you are not intruding if you ask if there is a problem). They are usually fighting about another guy who is in the bar (which with a couple more drinks will cause a brawl). When there is a disagreement or argument, do not wait for it to escalate. Separate the parties involved and make sure that at least one of the parties (if not both) are escorted out of the building.

If you perform steps 1,2 and 3, you have provided the customer a clean, dry, safe environment that is free of underage children, obnoxious drunks, petty arguments, and unseemly tough guys. Think about it. No shoving, no spilling beer on each other, no bad attitudes, no amateur drinkers, no tough guys from other areas, just a room full of well educated, well intentioned, well trained and well behaved customers looking to share a couple of beers and some good times with their friends. A full 95% of the time this statement holds true. The other 5% of the time, however, we must implement step 4. The enforcer.

4. The Enforcer When all else fails we must band together and remove a patron from the building. This is done as follows:

1st Determine who the players are (including people to be thrown out, victims permitted to stay, big boys that may get involved).

2nd Using your flashlight, and the help of the DJ to call all security (if less than 4 security guards, call a bartender).

3rd Review the situation (brief all the members of management and the security team of all the players involved including who the friends of the trouble makers are)

4th Have a minimum of three security guards surround the person to be escorted out while the forth guard keeps his friends and other interested parties out of the situation. "Can I ask you guys to step back please."

5th Escort the person to street level and let them know that the police have been called (the manager will ultimately decide if they in fact are called in).

6th Quickly return to your designated position and mend any battered egos.

DOORMAN ONLY

1st Ask the people to please walk through the crowd control ropes (even if there is no line, this will insure that you both have their respect and that they are aware that there is a well trained staff awaiting them inside). Security should be positioned at the front door to give them a warm greeting. ("Welcome to Madison's, may I see your ID please") Any customer noticeably under 30 years of age must be carded.

2nd ID must be out of the plastic. Simply ask " May I ask you to take that out of the plastic please". This, along with noticing their disposition when you ask them to please walk through the crowd control ropes, is a good opportunity to see if they are "throwing" you attitude and may become the source of some trouble later after they have had a few drinks. If they are giving you even the slightest bit of attitude, you **MUST** deny them entry! This should be accomplished by using OUR standard "I'm sorry but I can't let you in this evening, You are not in that Madison's State Of Mind". When they ask you what that means, simply let them know that this is a "comfortable, high energy bar that is filled with a bunch of smiling faces and I'm sorry but you just don't look like you came here to smile tonight". If they continue to antagonize you, call for some backup and let him/her know that if they leave now, politely, they are more than welcome to come back tomorrow. If not, you will be forced to "Eighty Six" them and that neither of us want to have that happen.

3rd Place flashlight underneath ID to check for fake laminate or noticeable changes that will be evident with light shining through.

4th Check to insure that magnetic strip on back is exposed and not covered by a thin layer of plastic.

Steps 3 and 4 only insure that it is a valid license not that it is the property of the person standing before you.

5th To check if it is the person presenting the license's valid ID, Check the Height, Weight & Eye Color. If you are not 100% sure it is their license, ask them to please sign their name on the pad of paper you should have at the door with you.

Please note that a typical ABC sting operation will include a valid picture on a license accompanied by the wrong information (such as a 5'3" 115 lb. Female with green eyes presenting a license with her actual picture on it but stating that she is 5'9" 145 lbs. With brown eyes and the wrong signature.

6th Once you are assured that the person standing before you is of drinking age, Please let them know that we appreciate their business by using their name as follows: "Enjoy yourself Bob", "Have a good time Susan", "Good to see you again Monica".

7th Upon leaving for the evening please thank the customer for coming out and ask them to be careful getting home (if someone appears noticeably drunk please ask them to wait down on the corner and call them a cab).

8th At the end of each evening, please call all the members of security team outside to:

- a) protect the perimeter of the building
- b) station one of the guards at the curb to direct patrons from crossing the street against the Red Light. The police have asked us to help them prevent people from jaywalking and we are taking this request very seriously.
- c) Help to disperse the crowd (again the police have asked us to help disperse the massive amount of bodies that "linger" on our streets).

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I \_\_\_\_\_, have read the above policies and procedures of Madison's Security Training Manual and have had all, if any, possible questions answered for me. I fully understand the depth of the responsibility that this position holds and, as an employee of Madison's Grill & Tavern, I vow to comply with all of the instructions given to me during my training. Furthermore, it has also been explained to me that by signing this waiver of agreement, I will be held solely responsible for any unlawful actions that may occur as a result of not adhering to the conditions explained to me in this manual. Those Guy's Inc., dba. Madison's Grill & Tavern will not be accountable for such actions or possible lawsuits caused by those actions.

Date\_\_\_\_\_ Employee Signature: \_\_\_\_\_

Date\_\_\_\_\_ Manager Signature: \_\_\_\_\_